

REMARKS

The Office asserts that '996 must possess the polyphenols because the product is the same as that claimed. This is not understood. Claim 10, as being presently examined, is directed to a food product comprising statins and polyphenols and having an Hue a* value of less than 20. It is not apparent what forms the basis for the Office's assertion that the product of the reference is the same as that claimed. The Office points to no disclosure in '996 of the polyphenols. Therefore, it is respectfully submitted that the obviousness rejection should be withdrawn.

As to color, the claim is directed not just to a composition with a defined color, but to one which includes statins and polyphenols. The Office suggests that activated charcoal might be used, but provides no basis for concluding that the resulting composition would still include statins and polyphenols, ie that they would be unaffected by the activated charcoal.

In view of the foregoing, it is respectfully requested that the species be deemed allowable and that prosecution of other species continue.

An Information Disclosure Statement is being furnished herewith.

Respectfully submitted,



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